

June 14, 2024

Board of Zoning Adjustment

Applicant's Preliminary Burden of Proof Statement

This statement is submitted on behalf of 3309 12TH STREET HOLDINGS LLC, owner of the property location at 3309 12<sup>th</sup> St NE in the MU-3A zone district, is located near the intersection of Kearny St NE and 12<sup>th</sup> ST NE. The property is currently a Single-story Store.

The Applicant is requesting Special Exception relief from 11 Subtitle C § 701.5:

*Except as provided for in Subtitle C § 702, parking requirements for all use categories are as follows (all references to "sq. ft." refers to square feet of gross floor area as calculated in Subtitle C § 709):*

- Residential, multiple dwelling unit – 1 per 3 dwelling units in excess of 4 units

**The site does not have access to an Alley, therefore parking off the rear is infeasible. Further, there is an existing curb cut that is proposed to be closed as the existing parking spaces is non-conforming as it exists between the front face of the building and the front lot line, per Subtitle C § 710.2 (b).**

The Applicant is also request Special Exception Relief from 11 Subtitle G § 207.5:

*Except as provided in Subtitle G § 207.8, in any of the MU-3 zones, a minimum rear yard of twenty feet (20 ft.) shall be provided.*

**The existing rear yard is less than the required 20 feet. The proposed construction is to maintain the existing rear wall, therefore the proposed rear yard is also less than the required 20 feet.**

Per 11 Subtitle G § 207.14, Rear yard relief requires additional compliance to additional conditions:

Relief from the rear yard requirements of Subtitle G § 207 may be permitted if approved by the Board of Zoning Adjustment as a special exception pursuant to Subtitle X, Chapter 9, and subject to the following conditions:

- (a) No apartment window shall be located within forty feet (40 ft.) directly in front of another building;

**The existing rear wall is to remain. The next adjacent structure is greater than 50' from the rear wall, therefore shall comply.**

- (b) No office window shall be located within thirty feet (30 ft.) directly in front of another office window, nor eighteen feet (18 ft.) in front of a blank wall;

**The existing rear wall is to remain. The next adjacent structure is greater than 50' from the rear wall, therefore shall comply.**

- (c) In buildings that are not parallel to the adjacent buildings, the angle of sight lines and the distance of penetration of sight lines into habitable rooms shall be considered in determining distances between windows and appropriate yards;

**There is currently a garage adjacent to the structure that will block all views from the non-parallel adjacent building.**

- (d) Provision shall be included for service functions, including parking and loading access and adequate loading areas; and

**Parking would be the only service function. This BZA application requests relief from the parking requirement.**

- (e) Upon receiving an application for relief from rear yard requirements of this section, the Board of Zoning Adjustment shall submit the application to the Office of Planning for coordination, review, report, and impact assessment, along with coordination of reviews in writing from all relevant District of Columbia departments and agencies, including:

1. The District Department of Transportation
2. The Department of Housing and Community Development
3. The Historic Preservation Office if the application involves a historic district or historic landmark

**The applicant is willing to comply with any further provisions brought forth from these agencies.**

As required by Special Exception relief, the proposed construction fully complies with Subtitle X § 901 as outlined below –

901.2 The Board of Zoning Adjustment is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2), to grant special exceptions, as provided in this title, where, in the judgment of the Board of Zoning Adjustment, the special exceptions:

- (a) Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;
- (b) Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and
- (c) Will meet such special conditions as may be specified in this title.

The proposed construction shall be in harmony with the general purpose and intent of the Zoning Regulations and Maps as this is an MU zone and the proposed is an allowable use. Further, the mass of the structure is all to be conforming with this zone. This shall not adversely affect the use of the neighboring property as the proposed relief is for parking and the rear yard. The existing rear yard is proposed to remain, therefore there would not be any added affect to the adjacent properties. The parking relief would not affect the use of the adjacent properties. Finally, the applicant is willing to conform with any special conditions as may be specified in this title.